

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF NEW MEXICO

STATE OF NEW MEXICO <i>ex rel.</i>)	
State Engineer, <i>et al.</i> ,)	69-cv-07941-MV/KK
)	
Plaintiffs,)	RIO CHAMA ADJUDICATION
)	
v.)	Section 3, Rio Cebolla
)	
ROMAN ARAGON, <i>et al.</i> ,)	Subfile Nos. CHCB-001-0007
)	CHCB-002-0001B
Defendants.)	CHCB-002-0002C
)	CHCB-002-0009

**STATE OF NEW MEXICO’S RESPONSE TO DEFENDANTS’ REQUEST
FOR TRIAL SETTING IN RIO CHAMA, SECTION 3, RIO CEBOLLA SUBFILES**

The State of New Mexico hereby responds to Defendants’ Request for Trial Setting in Rio Chama, Section 3, Rio Cebolla Subfiles. The State respectfully requests that these matters be set for trial sooner rather than later. As the State has informed the Defendants’ attorney, the State has a trial scheduled in mid-November in the adjudication of Pueblo water right claims in another adjudication. Furthermore, if trial is scheduled for mid-November, even a slight delay would be compounded by the holiday season, such that these matters would then not come before the Court until some time next year. Considering the fact that Defendants Charlie and Geralda Chacon and Frances Quintana, and the State’s witness, John Baxter, are all quite elderly, a delay of four to seven months for trial may result in the unavailability of any one of these witnesses.

Furthermore, the adjudication of these subfiles has been pending for years. The issues have been narrowed considerably by this Court’s rulings, and the volume of admissible evidence

has been pared down significantly. At this point all parties should be ready to go to trial with two months' notice.

Finally, in discussing potential trial dates with Mr. Trujillo, he never mentioned that he would be unavailable for the entire month of September, 2016. The first notice the State received of Mr. Trujillo's unavailability was the electronic notice of Mr. Trujillo's Notice of Unavailability (Doc. 11124) received on July 11, 2016.

It is only July 13th. There are still more than five and a half months left in 2016. The defendants have presented no evidence to support the conclusion that this matter could not be brought to trial this year. The State believes that it is in everyone's best interest to conclude the litigation of these subfiles without further delay. Accordingly, the State respectfully requests that the Court consider setting these matters for trial as soon as is convenient for the Court.

Respectfully submitted,

/s/ Kelly Brooks Smith
Arianne Singer
Special Assistant Attorneys General
New Mexico Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102
(505) 827-6150
(505) 827-3887 (fax)

Attorneys for State of New Mexico

Certificate of Service

I certify that on July 13, 2016, I filed the foregoing electronically through the CM/ECF system which caused the parties on the electronic service list, as more fully set forth in the Notice of Electronic Filing, to be served via electronic mail.

/s/ Kelly Brooks Smith
Kelly Brooks Smith